

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

BREAST CANCER PREVENTION
PARTNERS, *et al.*,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, *et al.*,

Defendants.

Case No. 4:21-cv-07360-HSG

**NOTICE OF TENTATIVE SETTLEMENT
AND STIPULATION AND ORDER TO
ENLARGE TIME FOR DEFENDANTS’
ANSWER AND TO CONTINUE CASE
MANAGEMENT CONFERENCE**

Plaintiffs Breast Cancer Prevention Partners, Sierra Club, Defend Our Health, and Texas Environmental Justice Advocacy Services, and Defendants United States Environmental Protection Agency (the “EPA”) and Michael S. Regan, Administrator of the EPA (collectively, the “Parties”) stipulate as follows:

1. The Parties have reached a tentative agreement on a proposed settlement that would resolve all issues in this matter other than the claim for costs of litigation, including attorneys’ fees, and have memorialized that agreement in a proposed Consent Decree.

2. Undersigned counsel have submitted the proposed Consent Decree to their respective clients for final approval.

3. Approval of any settlement on behalf of EPA requires review and approval by the appropriate officials at EPA and the United States Department of Justice. Pursuant to EPA’s *Directive Promoting Transparency and Public Participation in Consent Decrees and Settlement Agreements* (Oct. 16, 2017) (the “Transparency Directive”), EPA must also publish both a notice of tentative settlement and a copy of the proposed Consent Decree in the *Federal Register* and hold a public comment period to invite feedback on the proposed Consent Decree from interested citizens.

1 4. Approval of the settlement on behalf of Plaintiffs requires review and approval by
2 various decision makers within Breast Cancer Prevention Partners, Sierra Club, Defend Our
3 Health, and Texas Environmental Justice Advocacy Services.

4 5. The Parties agree that a 90-day extension will allow them to complete their requisite
5 reviews and, if approved, complete the notice and comment process required by EPA's
6 Transparency Directive.

7 6. There have been two other time modifications in this case that each extended all
8 litigation deadlines for 60 days. Dkt. Nos. 16, 23.

9 7. Defendants' response deadline is currently March 28, 2022. Dkt. No. 23. A 90-day
10 extension would change Defendants' response deadline to June 27, 2022.

11 8. Currently, April 1, 2022 is the Parties' last day to meet and confer regarding initial
12 disclosures, early settlement, ADR process selection, and a discovery plan. *Id.* A 90-day
13 extension would change this deadline to June 30, 2022.

14 9. This Court set the Case Management Conference for Tuesday, May 10, 2022 at 2:00
15 PM. Dkt. No. 23. We request that the Court reschedule the Conference for Tuesday, August 9,
16 2022 at 2:00 PM.

17 10. This Court set May 3, 2022, seven days before the previously scheduled Case
18 Management Conference, as the deadline to file a Rule 26(f) Report, complete initial disclosures
19 or state an objection in a Rule 26(f) Report, and file a Case Management Statement. Dkt. No.
20 23. We request that the Court reschedule this deadline for August 2, 2022.

21 11. The Parties respectfully request that this Court enter this stipulation and extend all
22 litigation deadlines for 90 days as outlined above, and continue the Case Management
23 Conference until Tuesday, August 9, 2022 at 2:00 PM, or such later time as is convenient for the
24 Court.

25 12. Pursuant to Local Civil Rule 5-1(h)(3), the undersigned counsel for Defendants
26 attests that the other signatories listed below concur in the filing of this document.
27
28

1 Dated: March 4, 2022

2 Martha Mann (Florida Bar No. 155950)
3 martha.mann@usdoj.gov

4 s/ Paul Caintic
5 Paul Caintic (D.C. Bar No. 1779847)
6 United States Department of Justice
7 Environment & Natural Resources Division
8 150 M. Street N.E.
9 Washington, D.C. 20002
10 Tel: (202) 514-2593
11 paul.caintic@usdoj.gov

12 *Counsel for Defendants*

Respectfully submitted,

s/ Katherine K. O'Brien
Katherine K. O'Brien (*pro hac vice*)
Earthjustice
P.O. Box 2297
South Portland, Maine 04116
Tel: (212) 284-8036
kobrien@earthjustice.org


s/ Gregory C. Loarie
Gregory C. Loarie (SBN 215859)
Earthjustice
50 California Street, Suite 500
San Francisco, CA 94111
Tel: (415) 217-2000
gloarie@earthjustice.org

Counsel for Plaintiffs

* * *

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 3/7/2022


HAYWOOD S. GILLIAM, JR.
United States District Judge